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April 9, 2013

To: Supervisor Mark Ridley-Thomas, Chairman
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From: William T Fujioka
Chief Executive Officer

SACRAMENTO UPDATE - INFRASTRUCTURE FINANCING DISTRICTS

Executive Summary

This memorandum is to provide the Board a report on economic development bills of interest to the County which propose changes to existing laws governing Infrastructure Financing Districts.

Of the seven bills that have been introduced on this topic, all guarantee that the County's tax increment could not be pledged to repay bonds issued by an Infrastructure Financing District unless the County has adopted a resolution consenting to contribution of its tax increment to the Infrastructure Financing District. However, the Sacramento advocates have learned that one bill (AB 690) may be amended to remove that guarantee. The Sacramento advocates will continue to monitor the bill closely and will report back to the Board on any changes that would negatively impact the County.

Infrastructure Financing Districts

Under current law, cities and counties can create Infrastructure Financing Districts (IFDs) and issue bonds to pay for regional scale public works such as highways, transit projects, water systems, sewer projects, flood control, child care facilities, libraries, parks, and solid waste facilities. To repay the bonds, the IFDs divert property tax increment revenues from other local governments (except school districts) for 30 years. However, in order for an affected taxing entity to contribute its property tax increment

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revenue to the IFD, its governing body must approve the infrastructure financing plan by resolution.

The process for establishing an IFD requires that the city or county proposing the IFD develop an infrastructure plan, send copies to every landowner, consult with other local governments, and hold a public hearing. Once the infrastructure financing plan is approved by the affected taxing entities, the city or county proposing the creation of the IFD must get 2/3 voter approval to form the IFD and issue the bonds.

While Infrastructure Financing Districts use similar financing mechanisms as the former redevelopment agencies, the property in an IFD does not have to be blighted. IFDs are intended to include substantially undeveloped areas. Under current law, an IFD cannot overlap with an existing redevelopment project area.

The Legislature recently introduced seven bills intended to make the formation of IFDs easier and to provide cities and counties with a more flexible economic development tool to finance infrastructure projects, affordable housing, sustainable communities, and brownfield cleanup and mitigation in the post-redevelopment era. This office and County Counsel have reviewed these bills and note the following key issues of County interest:

- In its current form, the proposed legislation would not alter the requirement that an affected taxing entity must approve the infrastructure financing plan by resolution of its governing body in order for its tax increment revenues to be contributed to the IFD's financing plan. **This guarantees that any city or county's participation in an IFD and the allocation of its tax increment to the IFD is voluntary;**
- If enacted, SB 33 (Wolk) and SB 628 (Beall) would remove the voter-approval requirement to create an IFD and issue bonds;
- If enacted, AB 243 (Dickinson) and AB 690 (Campos) would lower the voter-approval threshold from 2/3 vote to 55%;
- SB 33 (Wolk), AB 662 (Atkins) and AB 690 (Campos) would eliminate the prohibition that an IFD cannot overlap with a redevelopment project area. **County Counsel indicates that this is problematic because it creates a conflict with the requirements of current law (ABx1 26 of 2011 and AB 1484 of 2012) that former redevelopment agency property tax increment revenue be deposited in the Redevelopment Property Tax Trust Fund to pay down the former redevelopment agency's enforceable obligations.**

SB 33 (Wolk), as amended on March 6, 2013, would repeal the voter approval requirements for the creation of an IFD and bond issuance and would authorize the legislative body to create an IFD. The bill would also: 1) create a public financing authority as the legislative body of the IFD; 2) add the requirement that the IFD's financing plan include goals to assist transit priority project development and a public accountability committee; 3) expand the list of authorized projects to include levees, watershed lands, and habitat restoration; 4) extend the maximum term of IFD bonds from 30 to 40 years; 5) require annual reports; 6) prohibit the IFD from spending funds to construct new projects if progress is not made on the IFD's goals for five consecutive years; 6) repeal the prohibition on overlapping with a redevelopment project area; and 7) authorize an IFD to finance any project that implements or is consistent with a sustainable communities strategy or alternative planning strategy.

County Counsel notes that the proposed elimination of the current prohibition on an IFD overlapping with redevelopment project areas is problematic. As currently written, SB 33 would create a conflict with the requirements of current redevelopment dissolution law (ABx1 26 of 2011 and AB 1484 of 2012) that stipulates that former redevelopment agency property tax increment revenue be deposited in the Redevelopment Property Tax Trust Fund to pay down the former redevelopment agency's enforceable obligations. **County Counsel recommends that the bill be amended to specify that an IFD can only share territory with a redevelopment project area once the life of the project area is over, or that property tax revenue needed to satisfy ABx1 26 and AB 1484 obligations are exempt from the tax increment that would otherwise go to the IFD.**

SB 33 is a reintroduction of last year's SB 214 (Wolk), which was vetoed by the Governor. In his veto message, Governor Brown indicated that expanding the scope of Infrastructure Financing Districts was premature and likely to divert cities' attention from winding down redevelopment operations, thereby preventing the State from achieving the State General Fund savings assumed in the FY 2012-13 Budget Act. This bill is supported by numerous organizations including: the California State Association of Counties, the California Special Districts Association, League of California Cities, Los Angeles Area Chamber of Commerce, League of California Cities, and Los Angeles Economic Development Corporation. The bill is opposed by the California Taxpayers Association. SB 33 is scheduled for hearing in the Senate Appropriations Committee on April 8, 2013.

SB 628 (Beall), as amended on April 2, 2013, would eliminate the voter approval requirement for the creation of an IFD, adoption of an IFD financing plan, and the issuance of bonds with respect to a transit priority project. The bill would also: 1) require an IFD using bonds to finance transit priority projects to also use at

least 20% of that bond revenue to finance affordable housing; and 2) declare the intent of the Legislature to prioritize environmentally conscious and sustainable transit priority projects and related construction projects that meet or exceed the California Green Building Standards Code. SB 628 is scheduled for hearing in the Senate Governance and Finance Committee on April 17, 2013.

AB 229 (Pérez), as introduced on February 4, 2012, would authorize the creation of an infrastructure and revitalization financing district and the issuance of debt with 2/3 voter approval to finance projects in redevelopment project areas, former redevelopment project areas, and former military bases. The bill would also: 1) authorize the creation of a district for up to 40 years and the issuance of debt with a final maturity date of up to 30 years; 2) authorize the legislative body of a city to dedicate any portion of its funds received from the Redevelopment Property Tax Trust Fund to the district, if specified criteria are met; 3) expand eligible projects to include water treatment, flood management, levees, open space, habitat restoration, land and property development, and environmental mitigation projects; and 4) authorize an IFD to implement hazardous cleanup pursuant to the Polanco Redevelopment Act. A similar measure (AB 2144) introduced by Assembly Speaker Pérez last year passed the Legislature but was vetoed by the Governor. AB 229 is scheduled for hearing in the Assembly Local Government Committee on April 17, 2013.

AB 243 (Dickinson), as introduced on February 6, 2013, is substantially similar to AB 229, as described above, except that it would lower the voter approval threshold requirement from 2/3 vote to 55% vote for the creation of an IFD and the issuance of bonds. AB 243 is scheduled for hearing in the Assembly Local Government Committee on April 17, 2013.

AB 294 (Holden), as introduced on February 11, 2013, would: 1) authorize an IFD to utilize the county Educational Revenue Augmentation Fund (ERAF) portion of incremental property tax revenue in its finance plan; 2) require that a bond issuance for an IFD specify that the date on which the bonds will mature may not occur prior to the receipt of at least \$100,000 in incremental property tax revenue by the IFD; and 3) authorize an IFD to finance brownfield cleanup that promotes infill housing and related development that is consistent with regional and local plans. AB 294 is scheduled for hearing in the Assembly Local Government Committee on April 17, 2013.

AB 662 (Atkins), as introduced on February 21, 2013, would amend existing law to allow IFDs to include any portion of a redevelopment project area. The author's office reports that the bill, which is in its early stages and will be developed in consultation with members of the Assembly Working Group on Redevelopment, and it is intended to serve as a vehicle for new economic and community development programs to create

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jobs, foster economic growth and create environmentally sustainable communities. Similar to SB 33, the elimination of the current prohibition of an IFD including any portion of a redevelopment project area creates conflicts with the requirement of the redevelopment dissolution law. AB 662 is scheduled for hearing in the Assembly Local Government Committee on April 17, 2013.

AB 690 (Campos), the Jobs for California Act, introduced on February 21, 2013, would revise the provisions governing Infrastructure Financing Districts to lower the voter approval threshold to 55% for the creation of jobs and Infrastructure Financing District and the issuance of bonds. The bill would also require adoption and implementation of a job creation plan and would allow IFDs to include any portion of a redevelopment project area. As with SB 33 and AB 662, the elimination of the current prohibition on an IFD including any portion of a redevelopment project area creates conflicts with the requirements of the redevelopment dissolution law. AB 690 has been referred to the Assembly Local Governance Committee.

The Sacramento advocates have learned that this bill is expected to be amended to remove the existing statutory requirement that an affected taxing entity's governing body adopt a resolution approving the contribution of its tax increment to an Infrastructure Financing District. These amendments would remove the County's ability to opt-in to the Infrastructure Financing District and would instead allocate the County's tax increment to the IFD without its approval.

This office will continue to work closely with County Counsel, Auditor-Controller, Department of Public Works, and the Community Development Commission to review the provisions of and amendments to these bills to determine their potential impact on the County and make recommendations accordingly.

We will continue to keep you advised.

WTF:RA
MR:AO:ma

c: All Department Heads
Legislative Strategist
Local 721
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City Managers Associations
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